

## SCAPPOOSE PLANNING COMMISSION MEETING MINUTES

Thursday, December 8<sup>th</sup>, 2022, at 7:00 p.m.

### 1.0 CALL TO ORDER

Vice Chair Blank called the meeting to order at 7pm.

### 2.0 ROLL CALL

#### Commissioners;

Bill Blank	Vice Chair
Bruce Shoemaker	Commissioner
Rita Bernhard	Commissioner
Marisa Jacobs	Commissioner
Monica Ahlers	Commissioner
Harlow Vernwald	Commissioner
<i>Excused;</i>	
Scott Jensen	<i>Chair</i>
Ty Bailey	<i>Commissioner</i>

#### Staff;

Laurie Oliver Joseph	City Planner
Chris Negelspach	City Engineer
NJ Johnson	Associate Planner
<i>Excused; Elizabeth Hoppala, Office Administrator</i>	

#### Applicants in attendance;

Applicant, Keith Settle, OXBO/Owner  
Applicant's consultant, Andrew Niemi, Lower Columbia Engineering/Owner  
Applicant's consultant, Lillianna Shriver (virtually)

#### Audience;

Mayor-elect Joe Backus

### 3.0 APPROVAL OF MINUTES

#### 3.1 November 17<sup>th</sup>, 2022, Planning Commission Meeting

Vice Chair Blank and Commissioner Ahlers submitted revisions to the minutes, each commissioner received a copy of the revised minutes. Commissioner Bernhard stated for the record that she was not at the last meeting. Commissioner Jacobs moved to approve the revised minutes as presented and Commissioner Shoemaker seconded. **Motion Passed 6-0. AYES: Vice Chair Blank, Commissioners Shoemaker, Commissioner Bernhard, Commissioner Jacobs, Commissioner Ahlers, and Commissioner Vernwald.**

### 4.0 CITIZEN INPUT (items not on the agenda)

There were none.

### 5.0 NEW BUSINESS -

#### 5.1 Docket # SDR3-21, SLDP (1-21, 2-21, 3-21), PLA2-21

OXBO Inc. has requested approval of an application for Site Development Review to allow for the construction of an 11,940 square foot equipment storage warehouse and an associated 3,600 square foot administrative office building for a new OXBO Headquarters. The applicant requests sensitive lands development permits due to the presence of floodplain, wetlands and fish and riparian corridor on site. The applicant also requests a property line adjustment to remove some of the common property lines on site. The site is located just west of the Oregon Meat Company building (addressed as 53195 Columbia River Hwy), northwest of the Scappoose-Vernonia Hwy and Columbia River Hwy intersection, on property described as Columbia County Assessor Map # 3201-CO-00600, 3201-CO-01700, 3201-CO-03100, 3201-CO-02800 and 3201-CO-02701.

*Format: Quasi-Judicial Decisions allow for both verbal and written testimony, which applies to the Sensitive Lands Development Permits. Only written comments are permitted for Limited Land Use Decisions (by 5:00 p.m., Wednesday, December 7<sup>th</sup>, 2022), which applies to the Site Development Review and Property Line Adjustment applications.*

Vice Chair Blank read the docket item, the quasi-judicial format, calling the hearing to order, and stating the order of hearing, then asked for any ex-parte contacts or conflicts.

Commissioner Shoemaker and Vice Chair Blank stated that they serve on the Habitat for Humanity board with the applicant's wife Christy Settle which will not affect their decision tonight.

Vice Chair Blank asked if any party wish to challenge any Commissioners impartiality or legal capacity to participate tonight. As there were none, he called for the staff report.

City Planner Oliver Joseph went over the staff report in the packet and staff recommendation for approval subject to the 42 conditions of approval, which the applicant has reviewed and accepted. She then asked if any Planning Commissioner had any questions.

Commissioner Ahlers stated she had a bunch of questions although is unsure whether to ask them now or after the applicant's presentation.

Vice Chair Blank stated it depends on the questions adding that after the presentation would be best. Then called for the applicant's presentation.

Applicant/owner, Keith Settle/OXBO, stated he was glad to see the mayor-elect Joe Backus in the room tonight. And that the city has great staff. He stated that he has worked on this proposal for almost 5 years now and asked staff if they realized that.

City Planner Oliver Joseph replied that it was not directly with them and more in the background.

Applicant/owner, Keith Settle/OXBO, responded that it was 5 years ago when he first came into the office to state that this is the only place his business can be located, asking if they could make it work. He then turned to the Planning Commissioners to state that he would answer any questions they have although will mostly speak about the city's process. He stated that he purchased the Oregon Meat Property, as well as the Cinnamon Tree property for a total of 40 acres. He added that this property is a key piece of what happens to Scappoose in the future as it is the gateway to the north, that whatever they do there is going to leave a lasting footprint and they want to do it the right way. He stated that this will probably be the first of many Planning Commission applications and presentations as this is only his first step of many towards their final goals for the property. He began by stating that he wanted to give a little history on his OXBO company which he started in Columbia County in 1993 and then moved around to different locations. For those that don't know, OXBO moves transformers and enormous equipment all over the United States not just in Columbia County or in Oregon, and that only a very small amount of their business comes from here. Then as they grew, they needed more property and there was only one place that they could possibly go. He stated that they looked at the airport property, but the trailers they use for moving are 300 feet long therefore the radius of the corners to go to Scappoose Sand and Gravel would not be possible to get back there. Adding that this property was really the only place that they could go and still stay in Columbia County at least on this side of town. He stated that he was born and raised here, he tells people that he was born at the DMV as the building used to be a hospital. He added that as far as he can remember, nothing happened with that property he just purchased since his parents quit dancing at the Cinnamon Tree Restaurant in the early to mid-1970's for anybody that's not from around here. Adding that the once the Cinnamon Tree closed, those properties just sat there and looked exactly the same as they do now. He stated that they really want to do something special with the property. Adding that he wants to make sure that everyone understands the process that they had to go through to get there tonight, with the 256 pages in front of you, that this is nothing against city staff Laurie and Chris as they've been wonderful guiding him through this process. He stated that this is more of a thought, adding that this might be something for Mayor-elect Backus to consider, but if they don't make this process a little bit easier for business owners then Scappoose is not going to have any new businesses here. He stated that if he wasn't from here, he wouldn't have done this process. Adding

that it is very difficult to try to work here. He stated that he knew it was going to be a difficult piece of property and there's no doubt about it, but anyone can do the math. He stated that he has more than \$1,000 per page invested into this project to get to this point and that's money that could have been spent developing the property or it could have been put into the 40 employees that work here. He added that they expected it to be difficult, but he doesn't know if the commissioners realize how difficult of a process it is here. And maybe, from behind your chairs, you don't have any control over the process because he thinks they might actually be dealing with state mandates on what they are having to deal with. Adding that if we as a group don't push back on this stuff, then small companies like his can't do the process. He realizes that he is probably talking more broadly on the subject, although wanted to express that it has been a tough process which Andrew has guided him through it. He added that he knows this is just the first step and wanted the commissioners to know that he will answer any of their questions although he could not speak more eloquently than the 256 pages of information that is in the packet before you. He hopes everyone read it all because he actually did not read all of it as he just kept seeing all the conditions of approvals come up and everything that they would need to do. He stated that finally after purchasing the property 5 years ago, they get to turn dirt. He explained that it has been a tough road although they know that they really want to make the property better and keep employing their 40 employees in Scappoose. He hopes that they can also do something with the rest of the property to make it more appealing to others that want to start a business on their property, that they will have a place for them. He added that there are not that many opportunities in this county or in the state and knows that there are regulations needed to protect our ground and to protect our environment, but we all need to remember that we all live here too. Adding that if they don't start counting for the people that live here then we're not going to have any left here. He concluded by stating that this is his soapbox statement then asked if anyone had any questions for him.

Commissioner Blank stated that he does have a couple questions. He stated that the entrance to this is just off the highway, which is really outside the city limits, and the application shows you've done a lot of work and the design for it to be widened. He asked if the design is meant to accommodate the 300 feet long equipment to get onto the highway and if there be some type of traffic control when you have this large equipment going onto the highway.

Applicant/owner, Keith Settle/OXBO responded that their business, for the last 15 years, has been located just north of town at the corner of Gilmore Rd and Hwy 30. Adding that those same trailers have been coming out of Gilmore Road, which also happens to be right on a corner along Hwy. 30, and that their trailers are very maneuverable. He also replied that they are not widening the access as it is actually already a 35-foot-wide access there that has never been used to its full capacity, which he did confirm before purchasing the property. He added that whenever they move those trailers, they have traffic control which is required on anything that's oversized, defined by ODOT as anything more than 8 feet wide and 53 feet long total, they have to have an ODOT permit as they regulate everything they do including how many traffic control people are required and whether it will require police escorts, which is very common for them. He stated that they are going from a 5-lane road to basically to a 3-lane road when they go on the 35-foot wide access. Adding that their trailers are designed to go from 2-lane road on a 90-degree corner to another 2-lane road. Responding to the question as yes, they can make that corner.

Commissioner Blank asked about the weight of the of the equipment and if the road will be able to withstand that should there be any flooding.

Applicant/owner, Keith Settle/OXBO replied that the reason that the trailers are 300-feet long is so that it spreads the load. Adding that when you see all the dump trucks that come out of Scappoose Sand and

Gravel that are loaded to 105,000-pounds, they will actually have more weight per tire on their trailers than what they do. And once again everything is engineered and permitted on every road that they go on before they go out there. Adding that they have their own engineers that turn this in, and that's the reason the trailers are so long and wide is so we can take a 300,000-pound transformer that you have sitting here in your substation that is right over by Pizza Vendor, and they legally put it on the road as that's what these trailers are designed for.

Commissioner Shoemaker stated that he has been here since 1993 but he's never seen them on the roadway and asked what time of day that usually work.

Applicant/owner, Keith Settle/OXBO replied that they are pretty sneaky with that stuff, although most of the time they do have curfew restrictions, so you won't always see us plus it depends on the size of trailer as well. He stated that some of their trailers are 300 feet long, but when they're empty they will break them in half although they are still huge at 150-feet long, then they will put them together at the site. He stated that their permits always have hours of restrictions, so a lot of times, if they're huge they work at nighttime so when everyone goes to bed at night, and you come back in the morning with a huge trailer sitting in the driveway with everybody wondering how they got it down there. He stated that for those of you that have not been here for a while, they used to move houses a lot more than we do now with the same scenario where come Monday morning, there would be 3 houses sitting on our property because on Sunday night at 2:00 in the morning as they brought them out from Portland and set them down there as a temporary storage area. Reiterating that DOT in each state controls that, as they have to ask permission for everything that's oversized and what time and when they can go, plus how many escorts we need to have and if they will require police. He stated that Oregon does not require much police escorts as with other states that do.

Commissioner Shoemaker asked an inaudible question about his 74 employees.

Applicant/owner, Keith Settle/OXBO replied that it is actually employees during the slow time because when they are busy, their employees are all over the country. He stated that it is every single employee they have if each employee came to the shop every day and left every day then went to lunch and came back, that's how they count, as it's a worst-case scenario on the round trips but it's the same number that have been coming off Gilmore Rd. for the last 15 years as well. Adding they are actually excited to be able to drive directly onto Hwy 30, on a straight stretch of roadway since there is a little curve right there at Gilmore Rd. and they are fortunate to have never had accident there although they have had several upside-down vehicles land in our shop with one that landed in the Creek. He stated that it is amazing how that little corner on Hwy. 30 at Gilmore Road distracts people, so they are excited to have vision in both directions at the new access way which is a much better location for them safety wise.

Commissioner Ahlers asked if the area they're excavating, the 93,108-cubic yards, is shown on the plans yet or has that been decided or how big the area will be like 2 acres, 3 feet deep.

Applicant/owner, Keith Settle/OXBO replied that it is on the plans. He stated that this process is the site design review (SDR) and once they go to building permits then it will be much more specific, but he believes that we've pretty much crossed all the T's and dotted all the I's which should be right there. Also explaining that it is normal in any construction to create a depression in the land in order to build up, which is how we

control flooding now. He then turned to his consultant Andrew Niemi/Lower Columbia Engineering, to speak to where it is, but he thinks it's back to the west a little bit more as well.

Applicant's consultant Andrew Niemi/Lower Columbia Engineering explained that they worked with Keith on the engineering for his original site in the County jurisdiction, that is just north of Gilmore Rd. and they have been working together for a while now, adding that Keith has been willing to hire whatever consultants have been required, have whatever study on the property done that has been asked and in his opinion, he's been one of those land owners that has been a real steward of the property and the entire process. He explained that it has been pretty daunting as it is a really challenging piece of property with multiple tax lots there that each one brings different challenges with a mix of tax lots that are in the city and in the county jurisdiction. He stated that as they all probably already know, that the city has a very thorough staff that does a very good job by making sure that all of the different boxes are checked, explaining that what you have before you is as thorough of packet as he will say that he has ever seen in his 25-year career. Then moving on the question about the cut and fill, he stated that he believes the commissioners know, and as Laurie mentioned in her staff report that the city requires a balanced cut and fill for each tax lot and because of the location and the floodplain, it's required to elevate the building up to a certain elevation that is safely above the floodplain. Adding that the fill that's required to get them to that elevation has to be balanced on that specific tax lot, so they are proposing a cut on the western end of the property there that's kind of outside of the footprint that's being improved really for the purpose of balancing that cut and fill. Adding that they have had a geotechnical exploration done with a lot of poking and prodding themselves to really understand what all the ramifications are of meeting those requirements, and that is all addressed in the 40-some pages of the plans that are sitting before you.

City Planner Oliver Joseph explained to the commissioners that they can see it specifically in exhibit sheet D-10 on page 74 of your packet which shows where they're cutting and the cross section.

Commissioner Ahlers stated that what she was noticing was in exhibit 17 that it was being addressed that cutting that amount and in that area, could create a wetland so her question on that is if they were creating a new wetland, does the wetland buffer move 50 feet around that new wetland.

Applicant's consultant Andrew Niemi/Lower Columbia Engineering explained that he wouldn't necessarily say they are creating a new wetland as they are working adjacent to the wetland there. Explaining that it is interesting that the state doesn't regulate creating new wetlands, so in the future that could end up being a wetland and then it would be the applicable regulations that would apply to it if it does become a wetland in the future. He stated that the current wetlands are all delineated and they are making a point to comply with all of the applicable regulations associated with those.

Applicant/owner, Keith Settle/OXBO stated that he is actually glad Commissioner Ahlers brought up the wetlands, as he wanted to speak to that a little bit and he's sure they can correct him if he's wrong, but he does not think a wetland actually becomes a wetland until it's been there for five years. Asking city staff if that was correct, if you create it?

City Engineer Negelspach's short reply was inaudible.

Applicant/owner, Keith Settle/OXBO stated that one of the things he wanted to point out as it is daunting listening to Laurie talk about all the wetlands and riparian areas in the Alder Creek. Stating that all that stuff was made by the humans that had the property before he purchased it was not naturally occurring there and that Alder Creek was dug in by the previous property owners to drain the ditch on the other side right down the property line. Explaining that it then got classified as a fish bearing stream although he doesn't know how fish could ever go up that, which is not his job to do that. Explaining that honestly speaking, those wetlands were created mostly by Hwy. 30 building up a hump in the middle so the water can drain. Also explaining that the property in the back where they are building was filled in at one point and the people that filled it dug in a wetland, proven by using Google Maps which is pretty amazing as it goes back to the 1950s and that the wetland wasn't there, adding that it was dug in and they took fill from right next to Crown Zellerbach Trail and built up the other part of it and then the floodway was an illegal fill by the property owner before us. He stated that he actually went to FEMA before he bought the property, to state that their map says this is a floodway and he explained to them that it is not a floodway anymore because it got filled by a previous owner. He then asked them if they wanted him to put the floodway back or if they wanted him to make it match their FEMA map since their current map it's not correct. Further explain that the floodway goes right through the edge of the storage units then behind Grumpy's towing, and you can tell it's not there as there is now three feet of rock there. He continued by explain that in essence he can sit in front you today and say he might be the first person that's asked for permission to do anything on the property since everything else there has just happened without any permission then asked if that a fair statement, as they are just taking what was a manmade mess and they are trying to clean it up and make something good out of it. He stated that he just wants to try to save some money so he can put up a nice hedge to have a nice entrance. Adding that if you go by their existing property on Gilmore, which they just actually sold it to help pay for this which didn't happen in the order he wanted, but that property used to be just oak trees and a swamp with a couple cows there, and now it's a functional light industrial property with a really nice house on the back which now looks very clean and neat. Stating that in his opinion, it is one of the neatest properties on Hwy 30 and he plans to do the same thing on this other property. Adding that his goal is to work with the wetlands as much as they can and they may end up mitigating some of them, but that's a whole other issue as they are trying to get our shop in so they can continue to operate their business. He stated that this is just step one of several to come but their goal is to take the mess that the previous owners created on the property and try to make it right and make it all work within the natural confines of the property. He stated that the previous owners that did work without permission have now created another 1000-pages of rules for him to fix it now, making it much harder on him to fix it all that it was for those people who made the mess in the first place. His goal now is to fix a problem the previous owners create on the property and every wetland that they touch, if they do, we'll all be within the confines of the laws along with DSL's ruling and they can actually recreate wetlands and mitigate them to the back of the site which as you know, is a whole other process so right now the reason it is so difficult is that they had to put in the development in such a way where the shop office and all the parking that they have right now with the turnaround that doesn't affect any of the things they are talking about because he can't afford to go do all the wetland mitigation as its kind of a catch 22. He explained that he went to DSL (Division of State Lands) to say they wanted to gravel this and put in a building, and they responded that they could not give them carte blanche to gravel it for a future development as they actually needed to have a development plan. Explaining it was like a cart and horse type thing, so he's putting this in knowing that they need more property than what's there but it's the best they can do right now, and they will fit within what's there although their ultimate goal is to work with DSL to continue to develop, mitigate and make it a more usable piece of property in the future.

Applicant's consultant Andrew Niemi/Lower Columbia Engineering elaborate more on the history of the site, because it he believe it is relevant. Stating that as Keith mentioned it's heavily modified and the pictures are not completely clear, but when he first got involved in looking at this site was the fact that it was described as a site with a previous illegal fill on it. Adding that when they started looking into it more, there actually had been a fill permit with the county originally that was basically like a cocktail napkin sketch of where they were putting material that was so vague then it was renewed multiple times to where he wouldn't necessarily say it was an illegal fill but instead a very poorly regulated process. Adding that while they complain and cuss about this current process that they are having to go through here, he'd like to give the city a pat on the back that there is some value in this process as they are now having to cleaning up the result of a pretty sloppy previous regulatory permit.

Applicant/owner, Keith Settle/OXBO added that not only are they cleaning up this property, which is better for the property, but it is also helping out the City of Scappoose as they annexed in the property that had existing problems on it, and now their project will clean up the problems that were created when the property was in the county jurisdiction. He explained that when he originally talked to the gentleman from FEMA about the project, he stated that he didn't care if he made the land match their existing FEMA maps or if they changed it as he just needed him to get it done. He wished the gentleman from FEMA was still there because it was supposed to be a 90-day approval process and they are now on year-three of that and still waiting on that approval that as it is the reason why it has held up their project, as they basically had to give you almost two proposals, one if the LOMR map goes through then is our plan and then another plan in case it doesn't go through, then they had to merge them together showing a plan that would work no matter what as he has got, to get more space for his company right now. Adding that it has been a very, very difficult process, which he thinks he's probably said way too many times but can't say it enough.

Commissioner Blank asked about the Letter of Map Revision (LOMR), and what the status was as they probably can't move forward without it, right?

Applicant/owner, Keith Settle/OXBO replied that they can move forward exactly like it is as they put in elevations that works both ways no matter which way it is, as they had to put the building higher to make sure it fit both floodplain elevations. Adding that he thinks it was about four months ago that he finally called the City Planner to say that they have to go without the LOMR since he was actually in control of waiting for it or to just cancelled the whole process, although he didn't want to cancel it since he already has three-years into waiting for it and the fact that it needs to be done, so he decided to just do it this way but then they agreed to just let's make it work both ways so they are good either way.

Commissioner Blank asked about the building elevations as one was 4 1/2 feet and the other one is a little bit lower than that. And asked what would be stored in the warehouse.

Applicant/owner, Keith Settle/OXBO replied that it's mostly equipment and tools, but his company actually got started mitigating the floods in Vernonia after the flood happened in 1996. And that's where OXBO actually started, was elevating homes after the floods so he is pretty astute with the FEMA plans and what you have to do, and it's a whole different elevation certificate for a commercial building that's built with metal rather than a residential structure with wood construction as with residential, everything has to be more than a foot above your ductwork and he believes the finished floor of the buildings must be higher than the

floodplain, although he believes that's even in excess because he doesn't know that it necessarily has to be that way as long as they are flood proofed below the floodplain, which is a metal building and concrete, which is what we have.

Commissioner Blank asked if their moving equipment was stored inside that warehouse.

Applicant/owner, Keith Settle/OXBO replied that the big trailers are not, it's mostly smaller equipment that is movable.

Commissioner Blank asked if there would be a ramp or elevated entrance to enter the building.

Applicant/owner, Keith Settle/OXBO replied that it might have a slight grade to get into it since it does sit a little bit above but its not like there would be a 10% grade for 10-feet to get into it. Adding that their trailers wouldn't make that kind of grade.

Applicant's consultant Andrew Niemi/Lower Columbia Engineering stated that is one of the reasons that volume is as high as it is so it doesn't jack up the footprint of the building but of course that feathering in the grade and the surrounding areas accommodate for the parking and to keep the area maneuverable for their trucks which is actually the majority of that fill that they are having to balance out with that cut to really make the site look natural when it's done and the buildings are all elevated. Adding that like Keith mentioned, they have the option of flood proofing anything that's not elevated above the 1-foot base Flood elevation or flood-proofing anything that is not elevated, but they will be elevating the all the utilities, HVAC and areas of lower elevations.

Applicant/owner, Keith Settle/OXBO explained that they don't want to have to run over there during a heavy rain to take the stuff out of the building as they would just rather build it up now.

Commissioner Blank asked about the buffer and restoring that buffer as it sounds like it's part of the project that needs to be done as he read that they have between August 1st and January 31<sup>st</sup> although other agencies had slightly different dates with July 15<sup>th</sup> through September 15<sup>th</sup>, and he is just wondering why including those dates as opposed to other dates. Then stated that maybe he should ask staff instead.

Applicant/owner, Keith Settle/OXBO explained that Andrew can speak to this also, but he thinks it was just a recommendation from ODFW from what he read. Adding that when he goes to actually get the permit, it will specify when they can work there and they will have to follow that. Adding that he believes this is an added condition to make sure they are following their rules. And he is hopeful that it's July 15<sup>th</sup> since everything comes to halt around here on about October 15<sup>th</sup>, and that their permits will specify the rules that they have to follow and that is definitely what they will do.

Commissioner Ahlers asked about the new gravel in the heavy equipment storage area.

Applicant/owner, Keith Settle/OXBO replied that there is already a gravel base there, but it needs more and once again, whoever did it previously didn't do it correctly and it was basically what's there. Adding that if anybody remembers that Angell Quarry by the Sauvie Island bridge, for years they couldn't wash their rocks



so they gave away rejects and every truck for probably 10 years would bring home a load of reject, which is just three quarter minus gravel with dirt mix in it and that's 90% of what is was used on that property. Adding that it's actually really good fill, but it's not graded quite the right way, so there are some soft spots. And to answer the questions, yes there will be some new gravel but we're not going to bring any more than is needed since anything they bring in they would then have to cut out to make up for.

Commissioner Ahlers stated that the area seems to come really close to the property line, where the North Scappoose Creek is and she couldn't see the riparian corridor so it was hard for her to figure out that approach on the riparian corridor on the northernmost point.

Applicant/owner, Keith Settle/OXBO explained that they will not be within 50-feet of anything over there and will make sure of that. Adding that their plans will show all that when we go to the building permit phase and that'll be something that when they pull our excavation permit, it will be inspected by the city inspectors, adding that it will be verified by city staff at some level, not only that the plans are correct, but that we're actually following the plans.

Applicant's consultant Andrew Niemi/Lower Columbia Engineering elaborated that this will also trigger a DEQ 1200-C permit for resident sediment control permit which is a very heavily regulated process that will monitor the protection of those areas with regard to runoff and require regular inspections that will be closely monitored during construction.

Applicant/owner, Keith Settle/OXBO stated that he thinks everyone here tonight can see by all of the entities which they had to appease each of their rulings, that they don't expect to sneak anything by anybody on the property that is right on the highway. Adding that he actually wants to meet all these people that have all these regulations so he can make sure they are all on the same page.

Commissioner Jacobs thanks Commissioner Blank and Commissioner Ahlers for their questions as it was similar to what she had and everything was covered.

Commissioner Blank had one other question about the driveway access since it outside the city, so it's not really applicable to us in some of the findings on the buffering and all that stuff, and asked if it fell under the preview of the county then because it's inside the county jurisdiction, if they had to get county permission for that since they may not have any say over it here but was just curious to know.

City Planner Oliver Joseph replied that she could speak on this as she did send it to the county for their comments and they did comment back that they may need a floodplain development permit on that tax lot 2800, if they're proposing any work that would trigger it. Adding that just the paving of the existing driveway through there, would not necessarily trigger any permit requirements from the county, and then they've already received their ODOT permit to construct their paved entrance into their site, so between those two entities that it is being covered.

Commissioner Blank asked if there were any additional permits from them.

City Planner Oliver Joseph replied, no.

Applicant/owner, Keith Settle/OXBO stated that just for the record, that Laurie and Chris have been dumped with the county's responsibilities too, cause anytime he asked the county a question they would reply that it is inside the urban growth boundary and to make sure the city likes what you're doing. Adding that eventually he will be back here to ask that that piece of property be annexed at some point as it is part of a bigger piece. He stated that he is asking for the minimum right now to meet the city's requirements, but it is with the thought that that will be an access to what they want to do with the Oregon meet property and this is just the first step of what the hope will be a great, great development that adds to our community.

Applicant's consultant Andrew Niemi/Lower Columbia Engineering elaborated by stating that for what it's worth, with regard to that access point on to the highway that during their initial discussions they obviously worked with ODOT permitting personnel on that access and throughout the design, then when they described the level of modern improvements to that access point by paving the driveway, ODOT basically said it is an existing access and would not require a permit. He stated that as they all know, given the thorough nature of the city staff that didn't seem completely satisfied, that they had actually talked to ODOT into reviewing and approving an ODOT permit application for the improvements so that we can say to the city that they got their ODOT approval and can check that box by actually having an approved permit from ODOT for the improvements that we're proposing.

Commissioner Blank stated that it seems like so far the city and the staff are doing pretty good job making conditions of approval and taking care of all the check boxes.

Applicant's consultant Andrew Niemi/Lower Columbia Engineering agreed, very thorough, yes.

Commissioner Blank stated that if there are no other questions, he asked if there are any opponents or proponents.

City Planner Oliver Joseph stated that they did not receive any speaker request forms.

Commissioner Blank thanked the applicant and his consultant, then asked for any staff questions.

Commissioner Ahlers stated that she has a question for staff regarding the gravel storage area, if there are any requirements for mitigating any chemicals that might leak from the vehicles and equipment into the gravel areas as she knows the paved areas would obviously drain into the stormwater treatment areas.

City Engineer Negelsbach replied that their code does not really address that, so he would say no there isn't, although did state that when there is pervious pavement or pervious concrete that it is considered to be treatment so there is some biological breakdown of those situations that happen even though there's not a stated water quality facility that's associated with that there is still some level of biological treatment which might be why it's not really regulated.

Commissioner Ahlers asked about the Swale C, set at 48 feet of elevation and maybe it's 10-inches above the floodway, so she was wondering if that particular swale was elevated high enough for a 100-year Storm.

City Engineer Negelsbach asked for clarification on the location of Swale C.

Commissioner Ahlers stated that it's the one like right next to the entry driveway right by the county property.

City Engineer Negelspach replied that he believed that was an existing drainage ditch.

Commissioner Ahlers stated that she's asking about the swale not the drainage ditch.

City Engineer Negelspach asked what her question was related to it.

Commissioner Ahlers asked if it was high enough to retain the water during the floodway situation if it would be retaining water or if it's a flood.

City Engineer Negelspach replied that he does not have the numbers in front of him but will once he receives the grading application and plans.

City Planner Oliver Joseph stated that it would be reviewed to make sure it meets our standard as part of construction permitting.

City Engineer Negelspach added that some of fine grading on the plans shows the contour data related to the ponds and the piped connections between ponds A & B. And those types of details he does not have the answers right now but can get them later. Adding that they will certainly have that box checked once they get the final storm report and grading design.

Commissioner Jacobs asked staff if they would be able to comment on how or if this land is similar to the Buxton property, in terms of the same floodplains or wetlands that are similar.

City Planner Oliver Joseph replied that there are wetlands so that is similar and there is fish and riparian corridor area. Adding that the floodplain is in a different floodplain zone, as this one is AO zone, whereas the Buxton is AE. Explaining that AO has a flood depth number on the floodplain maps, and so you have to elevate at least one foot above whatever that depth is. Stating that this one is 1-foot of depth. And this one is an industrial building which they could choose to just waterproof below that flood depth number instead of raising the building elevation. Adding that obviously for what they're trying to do, they want to raise the property instead. Stating that this property has been used quite a bit over the years that has been filled plus as Keith mentioned it has had gravel placed on it throughout the years, stating that it's been more heavily used than the Buxton property.

Commissioner Jacobs asked staff to explain what the next step is for them with all the conditions of approval before they would be able to break ground.

City Planner Oliver Joseph replied that one of the things that they need to do is they need to do is complete their property line adjustments and get those new deeds recorded, so it shows it as one lot in order to meet their cut fill balance. Adding that each condition will say when it will come into play, for example one is required for final occupancy and another one is required prior to any permits being issued, which they would need to go through and meet all of the conditions that are required prior to being issued the grading permit or

the construction permit, but as far as their larger grand plans for the entire site, she does not know exactly all the things that they have planned for the property. Adding that obviously an annexation would come back to Planning Commission first for recommendation to Council for their final decision. Adding that any kind of new buildings they would be constructing could trigger a major modification to the existing approved plans which would come back to the Planning Commission. She stated that there are some changes that they could do at the staff approval level. Then asked Commissioner Jacobs if she had anything more specific that she was trying to ask about.

Commissioner Jacobs stated that she understands how the conditions of approval work what they would have to go through but wondered if there was something beyond that.

City Engineer Negelspach stated that they will need to submit all their construction documents for engineering and building review for permits, including fire department elements. Adding that what you see here in the packet is the land use plans which are a general depiction of the project without all the engineering & building construction details as they are more to ensure compliance with the city's codes. Adding that all of the engineering details associated with this project will be submitted to him and the building official for review then issued permits. Adding that he will issue a grading permit.

Commissioner Jacobs asked if the permits would be issued as long as it complies with all the constraints of how the land is being utilized.

City Planner Oliver Joseph agreed.

City Engineer Negelspach stated that everything will need to match the elements of the grading and fills will have to match, that those things like the cuts and fills, that will have much more details later and all the elements of the layout.

City Planner Oliver Joseph added that they will also need to acquire an easement from Columbia County to cross the utilities underneath the Crown Zellerbach Trail property, and she knows that they've already been in contact with the county, and they know what that process will be.

Commissioner Blank asked if the city would be monitoring each phase of the progress.

City Planner Oliver Joseph agreed

Commissioner Blank asked staff if they did approve it tonight, would the applicant/owner be able to start the process as soon as possible or during the summer months.

City Planner Oliver Joseph replied that they do have some work windows for their in-water work that they have to abide by, even though they're not going to be working in the water but going underneath. Adding that they have certain dates they need to hit for certain parts of the project, but yes, it's absolutely conceivable that they could have everything in place and ready to go by then.

Commissioner Blank stated that for them this is their base headquarters, or maybe their national headquarters or international headquarters.

City Engineer Negelspach added that the land use approval is a good for one year.

City Planner Oliver Joseph agreed, adding that they can request a 1-year extension if they need to, although really as long as they have issued a permit, they don't have to be done in a year, they just need to pull their permit within a year.

City Engineer Negelspach added that they essentially have two years to get an application in for engineering approval and building approval those kinds of things and then they can work away at their pace.

Commissioner Blank asked that everything that they have here is based on the 100-year flood plain.

City Planner Oliver Joseph agreed.

Commissioner Blank asked if they should still be OK though because they're really raising that up quite high from the condition of approval.

City Planner Oliver Joseph agreed, adding that they had to do the no rise analysis as well as our code requires it.

City Engineer Negelspach added that it's sort of misleading, as some of the elements that you see on this plan like the floodway, like Keith has pointed out, it's not really applicable because it has been filled and the site has been elevated well above what that used to be. Adding that essentially it just a line on a map. Adding that the maps don't often match what is actually out in the field as they are typically somewhat off until a detailed survey shows that. And in this case, it's really obvious, it doesn't match so those kinds of things will be distinguished.

Commissioner Blank stated that the good part of this too, is the permitting process and things that have to be done, that boxes need to be checked off before they touch the ground that they are not going to affect any of that.

City Planner Oliver Joseph agreed, adding that all the recommendations from ODFW were placed into the conditions of conditions of approval, which we would then make sure that those are being met.

Commissioner Blank stated they he will go ahead and close this part of the hearing.

Commissioner Bernhard stated that everything is so thorough, and thanked staff for doing a fantastic job. She also thanked the applicant/owner for their patience to go through all this. Adding that they don't have the authority to change things that depend on state laws and county laws, that she knows they experienced it all and she appreciates their patience as she knows it isn't easy and stated she understands that more than anyone tonight.

Commissioner Blank stated that comes from our former mayor.

Commissioner Bernhard also stated that she was also speaking as a former County commissioner, who knows its difficult to get this all together. And any question she had has been answered tonight in these 156-pages or whatever.

Commissioner Jacobs stated that she has a question and maybe staff could answer this as she likes to look at things from a holistic perspective of our area and given that there is a current development under consideration within a floodplain with Council, and this land is also within a floodplain and has wetlands and the question she would like to raise, is given that one development is pending that has similar land, would this decision be setting a precedent for development within our sensitive lands area within our city or should we be concerned.

City Planner Oliver Joseph stated she could speak on that.

Commissioner Shoemaker and Commissioner Bernhard stated that they are not the same.

Commissioner Blank stated not really, they are not the same.

Commissioner Jacobs stated that she would love to hear her colleagues speak.

Commissioner Bernhard added that she is not looking at the same thing, that they are different areas they should not be compared as they are not identical, other than the fact that they impact flooding possibilities, which she is concerned about as she lives in that area. And does not see how this decision would impact the other development's decision.

Commissioner Blank added that if you're in that area over there then you're seeing the flooding all the time, where this property you're not really seeing it here.

Commissioner Bernhard added that she's lived here for 40 years.

Commissioner Ahlers added that the applicants aren't responsible for what FEMA decides.

Commissioner Jacobs replied, sure.

Commissioner Shoemaker added that the point is what we're approving does not go from here over to city council.

City Planner Oliver Joseph agreed.

Commissioner Blank asked if it could be appealed to the Council.

City Planner Oliver Joseph agreed, this is a Planning Commission decision. And to respond to Commissioner Jacobs's question, that is why our development code has a no rise requirement in the city.

Adding that you can develop in the floodplain if you meet our codes and you can impact wetland buffers, if you meet our code and you can impact fish and riparian corridors, if you meet our code. Adding that her question of if we should be allowing these developments here, our development code already gives that allowance, if you meet the criteria. Adding that there is no way to deny something if our codes spell out how to have it approved and someone is meeting all of those criteria, then there would be no reason to deny it. Stating that while she understands Commissioner Jacobs' desire to have a holistic view on these things, that comes at the time when we decide to change our development code, updating our code where it's a legislative decision, and you're looking at changing policies for things like that. Adding that for an application that has been submitted, then the date it's submitted is the current code that they apply. Adding that in that sense, they have already as a city and as a City Council, when the codes were adopted, we have made an agreement that development in these areas is allowed, if done responsibly and if done according to the criteria in our codes.

Commissioner Jacobs thanked City Planner Oliver Joseph.

Commissioner Blank stated that since the staff recommends approval of the application, below is a motion that could be utilized and moved to approve SDR3-21, SLDP (1-21, 2-21, 3-21), PLA2-21 for the Oxbow headquarters and adopt the findings and conditions of approval of the Planning Commission staff report dated November the 3rd, 2022. Commissioner Shoemaker seconded.

Commissioner Blank asked for any further discussions, as there were none he called for vote. **Motion Passed 6-0. AYES: Vice Chair Blank, Commissioners Shoemaker, Commissioner Bernhard, Commissioner Jacobs, Commissioner Ahlers, and Commissioner Vernwald.**

## **6.0 COMMUNICATIONS**

### **6.1 Calendar Check**

Commissioner Blank went over the calendar in the packet.

### **6.2 Commissioner Comments**

Commissioner Blank thanked staff for their good work.

### **6.3 Staff Comments**

City Planner Oliver Joseph stated that she briefly wanted to touch on a few things, then maybe will have a more robust staff comment in the next meeting. She stated she had exciting news that they have received the construction documents for the Healthy Smiles dental office which you all approved not too long ago. Adding that they will be scheduling a pre-application meeting soon for the Sears building for a change of use to gym and yoga studio. And a potential storage unit at the northern terminus of NE 1<sup>st</sup> St. for the JC Mechanical shop.

City Engineer Negelspach briefly discussed each of his current projects; the airport industrial subdivision, with miles of new roadway and utilities plus finishing up with the landscaping. Next phase is the Moore Rd. water lines, street improvements. Adding that he's been working on the Kale St. Subdivision plans, Food Cart Pods, Healthy Smiles, Substation sidewalk improvements on E. Columbia Ave., Candlelight apartments wrapping up, Tesla charging station by the library, and they have working with the applicant on Dutch Canyon IV subdivision.

Commissioner Blank asked about the status of the candle.

City Engineer Negelspach said great question, as he was there recently, and they have had challenges with supply issues and purchasing new old technology. Adding that he had difficulty finding a glass shop to replace the neon tubes as there are very few glass neon craftsman that blow glass work on the all the electrical components to recreate the candle flame.

Commissioner Blank asked staff if there was anything higher than a 100-year floodplain here since we're always talking about floodplains here and everything is based on the 100-year floodplain.

City Planner Oliver Joseph replied that she would need to look into that, adding that the city does participate in the Community Rating System, which means we have a higher than NFIP minimum standards in our code so every 5 years we really do a deep dive to get recertified for the program which recently just happened. Adding that some things changed in the manual, and in order to get back to a Class 8 Community where we were before, we need to update some portions of our floodplain code. Adding that Associate Planner NJ will kick this off in 2023 and will be looking at our floodplain ordinance to update it and there are opportunities basically that we can pick up more points for our community rating system if we have higher standards. Adding that would be the legislative process where they talk about every opinion anyone might want to put on the table when it's legislative and we're creating new code and that's the time she would hope that the concerned citizens would come to be part of that process as well and have some input in that. Adding that typically when they revise the development code, so that everyone is on the same page, is to start that project out essentially with Planning Commission work sessions with City Council to work through all those recommended edits to the code and work with our CRS program coordinator, who is like very well versed in that manual that we work out of and she can help us determine where we can get additional points for different standards. She stated that they were going to update it as part of the 50-year plan at anyway, although wanted to get that rating back up because it does affect flood insurance policy rates. She hopes by next fall, when we have our next yearly review to have that new code adopted so that we again get to the level we were at before, because we did retrograde level because that manual changed, that had to do with manufactured homes. Stating that for some reason in our code we didn't have the language for elevating 1-foot above the base flood elevation for manufactured homes although we do have it for site-built homes, so we will open that up and look at other things as well.

Commissioner Bernhard added that it's a great time to them to begin reviewing it as there are other applications coming and it will address the other issues we're seeing.

City Planner Oliver Joseph stated that we can still have development in the floodplain, if it meets the standards that we as a community have agreed that we want in our code and potentially have even higher standards than we have now.

Commissioner Bernhard added that clearly there has been interest in the last couple weeks about development in a floodplain and folks that are in the areas can be a part of this process. And we will see what happens in February as we have flooded during that month, and it is a great time to address these issues now.

City Planner Oliver Joseph agreed although it would be too late then as we would have to apply the criteria you already have at the time their application is submitted.

City Engineer Negelspach stated that it is hard to get that participation.

Commissioner Bernhard added they could put it out on social media and in the areas where applications are coming in so they can try to address their issues before they get that angry.

Commissioner Blank stated he tuned in to the City Council meeting and it went on for hours.

City Planner Oliver Joseph stated that since it is an ongoing hearing, discussing it would be appropriate that



we don't talk about it and if the application were to be appealed and remanded to the city, then it will come back to Planning Commission. So technically, you should keep notes on any ex-parte contacts that you're having. Adding that they be very vigilant, and not speak to others about it, as there is still that chance that it will come back and if there is extensive ex-parte contact or conflicts of interest, then you should not participate when it comes back or if it comes back.

Commissioner Blank asked if he need to declare that.

City Planner Oliver Joseph stated he could if it wanted but it shouldn't be an issue.

## **7 ADJOURNMENT**

Vice Chair Blank stated that with that, it's 8:42pm and adjourned the meeting and wished everyone a Merry Christmas.

  
\_\_\_\_\_  
Vice Chair Blank

Attest:   
\_\_\_\_\_  
NJ Johnson, Associate Planner